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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHN GILBERT,)
)
Plaintiff,)
)
vs.)
)
APC NATCHIQ, INC.)
)
Defendants.)
_____) Case No. A03-0174CV (RRB)

ATTORNEY'S REQUEST FOR HEARING

COMES NOW, plaintiff John Gilbert, by and through undersigned counsel, the Law Office of Kenneth L Covell, and hereby requests the court to put on a status hearing in this matter. Plaintiff's counsel is unavailable 12/23/06 through 1/8/07.

There are a number of important issues standing before the court, and resolution of these issues would advance the litigation.

1. The Motion concerning Exemption (Doc 42) as to the Safety Supervisor position is pending.

2. The court has ordered (Doc 90) that Gilbert's regular rate be calculated pursuant to 8 AAC 15.100. As Gilbert was paid a daily salary, this is a simple calculation of dividing a daily salary by eight hours. The defense argued the salary should be annualized, and then calculated on a weekly basis. Plaintiff Gilbert asks the court to confirm its order for calculation of regular rate pursuant to 8 AAC 15.100 (Doc 90).
3. The court, in n9 of its order regarding Partial Summary Judgment (Doc 30) dismissed Gilbert's contract cause of action claim. This ruling was not clear to plaintiff's counsel until sometime after the issuance of the order. In any event, defense counsel has found persuasive state authority, where the same issue was decided by Judge Savell, in plaintiff's favor, and allows a contract claim for year three (Doc 101). Further, plaintiff is asking for reconsideration of the contract issue on this basis.
4. Also pending is a Motion to Strike Plaintiff's Expert (Doc 36); and Plaintiff's Motion for Partial Summary Judgment regarding a 90-Day Penalty for unpaid wages, pursuant to AS 23.05.140(d) (Doc 44).
5. In addition, any other pending motions, and any omnibus issues could be addressed at that time.

RESPECTFULLY SUBMITTED this 21st day of December, 2006.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been
Electronically sent to the following attorney(s):

**Patricia Zobel
DeLisio Moran Geraghty & Zobel
943 W. 6th Ave.
Anchorage, AK 99501**

Dated: 12/ 21/ 06

By: /s/ Emily S. Ervin
Emily S. Ervin for Kenneth L. Covell